

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DONALD RAY LAMBERT,

Plaintiff,

v.

DAVID JOHN MUZNY,

Defendant.

)
)
)
)
)
)
)
)
)
)

Case No. CIV-23-1125-SLP

ORDER

Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Suzanne Mitchell [Doc. No. 5] regarding Plaintiff’s Application to Proceed In Forma Pauperis, i.e., without prepaying fees or costs [Doc. No. 2]. In the R&R, Judge Mitchell recommends the Court deny Plaintiff’s Application to Proceed in Forma Pauperis because Plaintiff has sufficient funds to pay the \$405.00 filing fee for his civil action. R&R [Doc. No. 5] at 1-4.


Plaintiff timely filed an Objection to the R&R [Doc. No. 7], but the nature of his objection is unclear. Plaintiff discusses a prior action which appears to have been related to the same subject matter, but he does not object to the finding that he is able to pay the \$405.00 filing fee. Upon review of the R&R, the Court concurs with Judge Mitchell’s analysis. Accordingly, the Court adopts the R&R and denies Plaintiff’s Application to Proceed in Forma Pauperis.

Plaintiff’s Objection notes some confusion as to the total amount due for his filing fee. Plaintiff recently paid \$100.00 to the Clerk of Court, and his Objection asks whether this partial payment is sufficient to allow this action to proceed and to allow the Clerk of

Court to issue summons. Obj. [Doc. No. 7] at 2. To be clear, because the Court denies Plaintiff's Motion to Proceed in Forma Pauperis, Plaintiff must pay the full \$405.00 filing fee. Accordingly, Plaintiff must pay an additional \$305.00 for his action to proceed. Plaintiff may be issued summons only upon paying the full amount due for his filing fee.

IT IS THEREFORE ORDERED that the Report and Recommendation of Judge Mitchell [Doc. No. 5] is ADOPTED, and Plaintiff's Application to Proceed in Forma Pauperis [Doc. No. 2] is DENIED. Plaintiff is directed to pay the remaining balance due for his filing fee, \$305.00, to the Clerk of Court within twenty-one (21) days from the date of this Order. Failure to pay the full filing fee within 21 days of this Order will result in dismissal of this action without prejudice.

IT IS SO ORDERED this 8th day of January, 2024.


SCOTT L. PALK
UNITED STATES DISTRICT JUDGE